

UNITED STATES DISTRICT COURT

Southern District Of California
Office Of The Clerk
880 Front Street, Room 4290
San Diego, California 92101-8900
Phone: (619) 557-5600
Fax: (619) 702-9900

W. Samuel Hamrick, Jr.
Clerk of Court

June 16, 2008

5-08-70037-HRL

Clerk, U.S. District Court
Northern District of California
450 Golden Gate Ave.
San Francisco, CA 94102

FILED
JUN 23 2008
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

Re: 08mj8521, USA v. Vargas-Barragan

Dear Clerk of the Court:

Enclosed please find copies of the following documents in connection with removal proceedings conducted in this District regarding the above named defendant:

<input checked="" type="checkbox"/> Docket Sheet	<input checked="" type="checkbox"/> Warrant of Removal
<input checked="" type="checkbox"/> Complaint	<input type="checkbox"/> Order of Removal
<input type="checkbox"/> Minute Order Appointing Counsel	<input type="checkbox"/> Detention Order
<input type="checkbox"/> Corporate Surety Bond	<input checked="" type="checkbox"/> Waiver of Removal
<input type="checkbox"/> Personal Surety Bond	
<input type="checkbox"/> Other	

Please acknowledge receipt of the above documents on the enclosed copy of this letter.

Sincerely yours,

W. Samuel Hamrick, Jr.
Clerk of Court

By: J. PARIS
, Deputy Clerk

UNITED STATES DISTRICT COURT

SOUTHERN

DISTRICT OF

CALIFORNIA

UNITED STATES OF AMERICA

WAIVER OF RULE 5 & 5.1 HEARINGS

(Complaint/Indictment)

V.

CASE NUMBER: 08MS 8521Gabino Vargas - Barragan

Defendant

CHARGING DISTRICTS

CASE NUMBER: 0870037 HRLI understand that charges are pending in the Northern District of Californiaalleging violation of 8 U.S.C. 1324 and that I have been arrested in this district and
(Title and Section)

taken before a judge, who has informed me of the charge(s) and my rights to:

- (1) retain counsel or request the assignment of counsel if I am unable to retain counsel;
- (2) an identity hearing to determine whether I am the person named in the charges;
- (3) a preliminary hearing (unless an indictment has been returned or information filed) to determine whether there is probable cause to believe an offense has been committed by me, the hearing to be held in this district or the district of prosecution; and
- (4) Request transfer of the proceedings to this district under Rule 20, Fed. R. Crim. P., in order to plead guilty.

I HEREBY WAIVE (GIVE UP) MY RIGHT TO A(N):

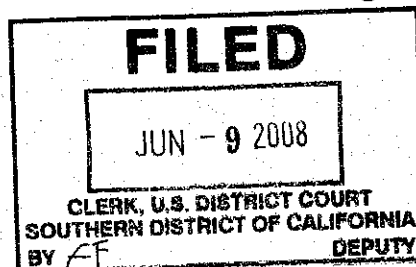
- () identity hearing
- () preliminary hearing
- (☒) identity hearing but request a preliminary hearing be held in the prosecuting district and, therefore, consent to the issuance of an order requiring my appearance in the prosecuting district where the charges are pending against me.

Gabino Vargas Barragan
Defendant

6-9-08

Date

Jim Egan
Defense Counsel



3xmm

Arrest on Out-of-District Offense

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ARREST ON OUT-OF-DISTRICT OFFENSE

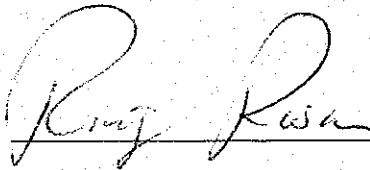
Magistrate Case Number: **'08 MJ 8521**

The person charged as Gabino VARGAS-Barragan now appears before this United States District Court for an initial appearance as a result of the following charges having been filed in the United States District Court for the Northern District of California with Deported Alien Found in the United States, in violation of Title 8, United States Code, 1326

The charging documents and the warrant of the arrest of the defendant which was issued by the above United States District Court are attached hereto.

I hereby swear under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

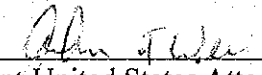
DATED: 6-9-08

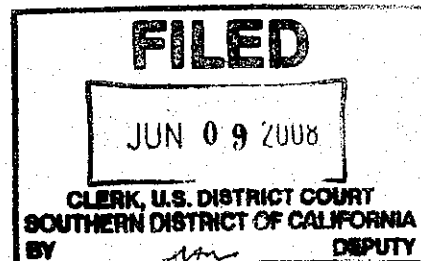


Ringo Rosas
(Name)

Reviewed and Approved:

Dated: 6-9-08


Assistant United States Attorney



United States District Court
Northern District of California

UNITED STATES OF AMERICA,

v.

WARRANT FOR ARREST

Gabino VARGAS-Barragan

08 70037 HHL

CASE NUMBER:

To: The United States Marshal
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED to arrest Gabino VARGAS-Barragan and bring him or her forthwith to the nearest magistrate judge to answer a(n)

☐ Indictment ☐ Information ☒ Complaint
☐ Order of Court ☐ Violation Notice ☐ Probation Violation Petition

charging him or her with

unlawfully re-entering and being found in the United States after deportation, without the permission of the Attorney General,

in violation of Title 8 United States Code, Section(s) 1326.Howard R. Lloyd

Name of Issuing Officer

Signature of Issuing Officer

U.S. Magistrate Judge

Title of Issuing Officer

January 22, 2008, San Jose, CA

Date and Location

Bail fixed at: no bailby Howard R. Lloyd

Name of Judicial Officer

RETURN		ORIGINAL WARRANT HELD BY	
This warrant was received and executed with the arrest of the above-named defendant at <u>EL CENTRO, CA</u>		<u>U.S. MARSHALS, SAN JOSE</u>	
Date received <u>6/6/08</u>	Name and Title of Arresting Officer <u>Kevin Rosa</u>	Signature of Arresting Officer <u>Kevin Rosa</u>	
Date of Arrest <u>6/6/08</u>	Signature of Arresting Officer <u>Kevin Rosa</u>		

RECEIVED
JAN 24 AM 11:00
NORTH DISTRICT
OF CALIFORNIA

**U.S. District Court
Southern District of California (El Centro)
CRIMINAL DOCKET FOR CASE #: 2:08-mj-08521-PCL-1
Internal Use Only**

Case title: USA v. Vargas-Barragan

Date Filed: 06/09/2008

Assigned to: Magistrate Judge
Peter C. Lewis

Defendant (1)

Gabino Vargas-Barragan

represented by **Federal Defenders**

Federal Defenders of San Diego
225 Broadway
Suite 900
San Diego, CA 92101-5008
(619)234-8467
Fax: (619)687-2666
Email: cassd_ecf@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Public Defender or
Community Defender
Appointment*

Diane Marie Regan

Federal Defenders of San Diego
225 Broadway
Suite 900
San Diego, CA 92101-5008
(619)234-8501
Fax: (619)687-2666
Email: Diane_Regan@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Public Defender or
Community Defender
Appointment*

I hereby attest and certify on 6/15/08
that the foregoing document is a true and
correct copy of the original on file and is in my
custody.

**CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

By [Signature] Deputy

Pending Counts

None

Disposition

**Highest Offense Level
(Opening)**

None

Terminated Counts

None

Disposition

**Highest Offense Level
(Terminated)**

None

Complaints

8:1326 - Deported Alien Found in
the United States

Disposition

Plaintiff

USA

represented by **U S Attorney CR**
 U S Attorneys Office Southern
 District of California
 880 Front Street
 Room 6293
 San Diego, CA 92101
 (619)557-5610
 Fax: (619)557-5917
 Email: Efile.dkt.gc2@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Assistant United
 States Attorney*

Date Filed	#	Docket Text
06/06/2008		Arrest of Gabino Vargas-Barragan 06/06/08 (tar) (Entered: 06/12/2008)

06/09/2008	<u>1</u>	OUT OF DISTRICT COMPLAINT as to Gabino Vargas-Barragan (1). (kmm) (mam). (Entered: 06/11/2008)
06/09/2008	<u>3</u>	WAIVER of Rule 5 Hearings by Gabino Vargas-Barragan (kmm) (mam). (Entered: 06/11/2008)
06/09/2008	<u>4</u>	Minute Entry for proceedings held before Magistrate Judge Peter C. Lewis:Initial Appearance in Rule 5(c)(3) Proceedings as to Gabino Vargas-Barragan held on 6/9/2008. Appointed attorney Federal Defenders for Gabino Vargas-Barragan. No bail set for Gabino Vargas-Barragan.Waiver of rule 5 filed. Deft ordered removed forthwith. (Removal/ID Hearing set for 6/19/2008 01:30 PM in El Centro before Magistrate Judge Peter C. Lewis.) (Tape #PCL08-1:14:21-14:24).(Plaintiff Attorney John F. Weis, AUSA). (Defendant Attorney Matthew Hagen, FD). (tar) (Entered: 06/12/2008)
06/10/2008	<u>5</u>	WARRANT of Removal to District of Northern District of California Issued as to Gabino Vargas-Barragan. Transfer documents have been forwarded to the Northern District of California(jmp) (Entered: 06/16/2008)
06/11/2008	<u>2</u>	NOTICE OF ATTORNEY APPEARANCE: Diane Marie Regan appearing for Gabino Vargas-Barragan (Regan, Diane) (Entered: 06/11/2008)

Warrant of Removal (After Waiver of Hearing)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v.

Gabino VARGAS-Barragan

Magistrate Case No. **08MJ8521**

WARRANT OF REMOVAL
(After Waiver of Hearing)

To: United States Marshal

A complaint having been filed in the Northern District of California, charging defendant Gabino VARGAS-Barragan alleging violation of Title 8, United States Code, 1326, Deported Alien Found in the United States, and the above-named defendant having been arrested in this district and, after waiving hearing pursuant to Federal Rules of Criminal Procedure 5(c) and 5.1(a), having been committed by a United States Magistrate Judge to your custody pending his removal to that district,

You are hereby commanded to commit the above-named defendant forthwith to the Northern District of California and there deliver him to the United States Marshal for that district or to some other officer authorized to receive him.

PETER C. LEWIS

PETER C. LEWIS
United States Magistrate Judge



Dated at El Centro, California, this 10th day of June, 2008.

RETURN

Northern District of California (at San Jose, CA) ss

Received the within warrant of removal the _____ day of _____, 2008, and
executed same.

RECEIVED
2008 JUN 12 P 4 5
U.S. MARSHALS SERVICE
EL CENTRO OFFICE

U. S. Marshal

By _____
Deputy Marshal

AO 91 (Rev. 5/85) - Criminal Complaint

United States District Court

NORTHERN

DISTRICT OF

CALIFORNIA

UNITED STATES OF AMERICA

V.

Gabino VARGAS-Barragan

CRIMINAL COMPLAINT

08 70037 HRL

CASE NUMBER:

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, May 23, 2007, in Monterey County in the Northern District of California defendant(s)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326
I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:
Official Title

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, twenty years imprisonment and \$100.00 special assessment fee and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM:

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Sworn to before me and subscribed in my presence,

1/24/08

Date

at

San Jose, California

City and State

Howard R. Lloyd
UNITED STATES MAGISTRATE JUDGE
Name & Title of Judicial Officer

Signature of Judicial Officer

Filed

JAN 24 2008

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

RE: Gabino VARGAS-Barragan

A28 800 759

I, Timothy F. Purdy, am a Deportation Officer of the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE). I have been employed by this agency, U.S. Customs & Border Protection and the former Immigration and Naturalization Service (INS), since October 1, 2002. I am currently assigned to the Criminal Alien Program at the San Jose, California Sub-Office. In such capacity, I have reviewed the official immigration "A-File" relating to the above named defendant, which attests to the following:

- (1) The DEFENDANT Gabino VARGAS-Barragan, is a 53-year-old married male, citizen and native of Michoacan, Mexico, born on February 25, 1954, as substantiated by multiple sworn statements made to that effect by the DEFENDANT on both February 20, 2004, at the West Valley Detention Center to Special Agent W. Chavez and more recently on May 23, 2007, at Soledad State Prison to Immigration Enforcement Agent David Picazo of the DRO/ICE Sub-Office in San Jose, CA;
- (2) The DEFENDANT has been assigned Alien Registration number of A28 800 759, FBI number of 065472W5, and California Criminal State ID Number of A07111225;
- (3) On April 28, 1988, the DEFENDANT was convicted in the Superior Court of California/County of San Bernardino, for the offense of: UNLAWFUL DRIVING OR TAKING OF A VEHICLE, a felony, in violation of California Vehicle Code Section 10851(A) and sentenced to eight days in jail;
- (4) On March 28, 1989, the DEFENDANT was convicted in the Superior Court of California/County of San Bernardino, for the offense of: POSSESSION OF MARIJUANA FOR SALE, a felony, in violation of California Health & Safety Code Section 11359 and sentenced to four years in jail. This offense is defined as an aggravated felony under Title 8, United States Code, Section 1101(a)(43)(B);
- (5) On October 28, 1993, the DEFENDANT was convicted in the Superior Court of California/County of San Bernardino, for the offense of: POSSESSION FOR SALE A CONTROLLED SUBSTANCE/METHAMPHETAMINE, a felony, in violation of California Health & Safety Code Section 11378 and sentenced to twelve years in jail. This offense is defined as an aggravated felony under Title 8, United States Code, Section 1101(a)(43)(B);
- (6) On September 28, 1999 the DEFENDANT was determined to be unlawfully present in the United States by the INS District Director San Diego, California and ordered deported from the United States to Mexico;

RE: Gabino VARGAS-Barragan

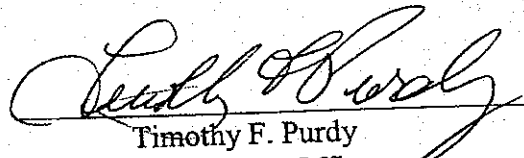
A28 800 759

- (7) On January 8, 2000, the DEFENDANT was determined to be unlawfully present in the United States by the INS District Director Los Angeles, California and ordered deported from the United States to Mexico;
- (8) On May 11, 2004, the DEFENDANT was convicted in the Superior Court of California/County of San Bernardino, for the offense of: POSSESSION FOR SALE A CONTROLLED SUBSTANCE/METHAMPHETAMINE, a felony, in violation of California Health & Safety Code Section 11378 and given a suspended sentence of five years in jail. This offense is defined as an aggravated felony under Title 8, United States Code, Section 1101(a)(43)(B);
- (9) On June 15, 2004, the DEFENDANT was determined to be unlawfully present in the United States by the DRO/ICE Field Office Director Los Angeles, California and ordered deported from the United States to Mexico;
- (10) On August 30, 2004, the DEFENDANT was determined to be unlawfully present in the United States by the DRO/ICE Field Office Director San Diego, California and ordered deported from the United States to Mexico;
- (11) On March 29, 2006, the DEFENDANT was convicted in the Superior Court of California/County of San Bernardino, for the offense of: VIOLATION OF PAROLE, a felony, in violation of California Penal Code Section 3056, and sentenced to three years in jail;
- (12) On, May 23, 2007, the DEFENDANT was encountered by IEA David Picazo, at the Soledad State Prison, and determined to be unlawfully present in the United States after a prior deportation. IEA David Picazo then advised the DEFENDANT his **Miranda** rights in the Spanish language. After the reading of his **Miranda** rights, the DEFENDANT provided a written statement admitting alienage;
- (13) On May 23, 2007, the DEFENDANT provided his right thumb and right index fingers with his sworn statement. A latent print examiner with the Santa Clara County Sheriff's Department conducted a comparison of those same fingerprints on the copies of the executed Warrants of Deportation and his existing fingerprints on file. The latent print examiner determined that the fingerprints were identical and were those of DEFENDANT Gabino VARGAS-Barragan;

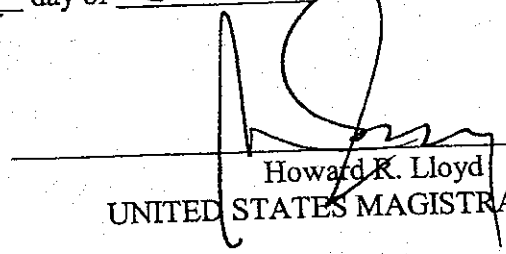
A28 800 759

RE: Gabino VARGAS-Barragan

- (14) The DEFENDANTS official A-File does not contain any record or indication that he either requested or received permission from the Secretary of the Department of Homeland Security or the Attorney General of the United States to reenter the United States;
- (15) Based on the above stated information, this Officer believes there is sufficient probable cause that the DEFENDANT is present within the United States in violation of Title 8, United States Code, Section 1326.


Timothy F. Purdy
Deportation Officer
Immigration and Customs Enforcement

Subscribed and sworn to before me this 24 day of Jan 2007


Howard K. Lloyd
UNITED STATES MAGISTRATE JUDGE